

David Kirk
873 Southern Creek Drive
Saint Johns, FL 32259
(904) 806-6937

April 26, 2021

VIA ECF & E-MAIL

Hon. Andrew L. Carter, Jr.
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: Addendum to Doc 47 Request to consolidate complaints, Kirk v. Citigroup Global Markets Holdings Inc., 1:20-cv-07619 (S.D.N.Y.)

Dear Judge Carter,

On 4/23/21 plaintiff's Doc 47 was docketed in this case, letter request that for this case under consolidation with the other 5 cases under \$75,000 in compensatory damages, that after consolidation as the first document to be considered for scheduling by this Honorable Court that plaintiff be given the chance to submit a consolidated complaint (or intuition of such). Since the filing, plaintiff has been made aware of additional highly important facts relevant to all the 12 cases and counting whose inclusion would surely entail that such a consolidated complaint be in written form, not just incorporated by intuitive reference. The accompanying Steadman complaint (1:21-cv-02430 [SDNY]) Doc 1-1 on page 7 lists a table for the percent change in uwt stock each day adjacent to a column for what the percent change should have been (3X the change in the advertised index). It shows not only the gross fraud that this case expounds on occurring on March 18 & 19, 2020, but a plethora of the same gross mis tracking of the index for following days. Namely, the over 24 percentage point shortfall on March 23, 2020, 11 percentage point shortfall on March 24, 2020, 9.6 percentage point shortfall on March 31, 2020, and to top it off **the 75.2 percentage point shortfall on April 2, 2020** – 4 additional days of gross under tracking in addition to the 2 days listed in plaintiff's Doc 22 in this case for a total of 6 days gross fraud starting March 18, 2020, the day prior to defendant's announcement of liquidation right up until April 2 capped that final day prior to liquidation with the most extreme fraud! Six grossly fraudulent days starting March 18, 2020 yet prior to that, as stated in plaintiff's Doc 26 Opposition, "In the 1,189 calendar days (850 business trading days) from inception Dec 8, 2016 to open March 17, 2020, uwt fell 96.89% from \$25 to \$0.7780. This comes to an average loss of 96.89%/850 trading days = 0.114 percentage points per trading day which is nowhere close to justifying the 50% drop in two days...", which quote can now be followed with "and the 4 additional days of gross under tracking listed above."

This new highly egregious additional evidence should not change the amount of compensatory damages in any of the 12 and counting cases, as to plaintiff's knowledge, all other plaintiffs listed their entire loss from shares held prior to March 18, 2020 or purchased on or after that date. However, **the new evidence greatly strengthens the case for punitive damages for all 12 and counting cases by adding 4 more days of gross undertracking to the two days initially listed for a total of 6 days – half of the 12 trading days from March 18, 2020 (day prior to announcement of liquidation) until capped off by the most extreme 75.2 percentage point shortfall on April 2, 2020 (day before liquidation), yet in the 1,189 calendar days (850 business trading days) prior since inception, not a single day of even the slightest mistracking!**

In light of this newly discovered evidence, plaintiff respectfully submits that after case consolidation, plaintiff be allowed to submit a written consolidated complaint as the first item to be scheduled, as it will need to take into consideration the Doc 22 Amended Complaint, Doc 26 Opposition points like the one mentioned above, aggregate issues mentioned in Doc 47, and newly discovered highly egregious evidence mentioned above.

Respectfully submitted this 26th day of April, 2021

/s/ David M Kirk

David M Kirk, plaintiff

Cc: Samuel J. Rubin (via ECF and e-mail)